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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

YENSY CONTRERAS, Individually, and On Behalf of  
All Others Similarly Situated,

Plaintiff,

-against-

PURE SEASONS, INC.,

Defendant.

1:22-cv-00130-MKV

ORDER OF DISMISSAL

MARY KAY VYSKOCIL, United States District Judge:

Plaintiff initiated this action by filing a complaint on January 6, 2022. [ECF No. 1]. Plaintiff alleges that Defendant Pure Seasons, Inc does not provide a fully accessible website for visually impaired individuals in contravention of the Americans with Disabilities Act, 42 U.S.C. §§ 12101 et seq., and the New York City Human Rights Law, N.Y.C. Administrative Code §§ 8-101 et seq. [ECF No. 1 at 10-11]. On February 14, 2022, the Court received a communication from individual employees of the Defendant stating that the website was fully accessible. [ECF No. 10]. The Plaintiff did not respond to the February 14 submission. On March 6, 2022, Plaintiff filed an affidavit of summons and complaint. [ECF No. 12]. Thereafter, on March 7, 2022, the Court received a communication from individual employees of the Defendant stating that the entities in the affidavit of summons and complaint were never served the summons and complaint. [ECF No. 13]. Plaintiff did not respond to the March 7 submission. On April 19, 2022, the Court received a further communication from individual employees of the Defendant stating that the website was fully accessible. [ECF No. 15]. Plaintiff again did not respond to the April 19 submission.

On April 20, 2022, the Court held a telephonic hearing with the Plaintiff and the individual employees. [ECF No. 16]. At the hearing, the Court discussed with Plaintiff certain

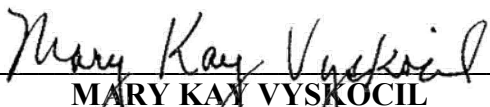
issues identified by individual employees of the Defendant with service of the summons and complaint. Following the hearing, the Court entered an order directing the Plaintiff to serve the Defendant and file proof of service on the docket on or before May 20, 2022. [ECF No. 16]. On April 20, 2022, the Plaintiff filed a certificate of service of the Court's April 20 Order on the docket, [ECF No. 17], but did not file proof of service of summons and complaint as directed. Plaintiff further did not file proof of service of summons and complaint by May 20, 2022.

On May 26, 2022, the Court noted that the April 20 Order directed Plaintiff to serve the Defendant and file proof of service of summons and complaint on the docket, and that Plaintiff had not complied with the Court's April 20 Order. [ECF No. 18]. The Court then directed Plaintiff to serve the summons and complaint on the Defendant and file proof of service of the same on or before June 10, 2022, warning that failure to show cause in writing why service had not been made by that date would be grounds for dismissal for failure to prosecute pursuant to Rules 4 and 41 of the Federal Rules of Civil Procedure. [ECF No. 18].

To date, no responses have been filed, Plaintiff has not filed proof of service of summons and complaint, and Plaintiff has not prosecuted this case. Accordingly, IT IS HEREBY ORDERED that the above-captioned action is discontinued for failure to prosecute without costs to any party and without prejudice to restoring the action to this Court's calendar if the application to restore the action is made by July 13, 2022. If no such application is made by that date, today's dismissal of the action is with prejudice. *See LeSane v. Hall's Sec. Analyst, Inc.*, 239 F.3d 206, 209 (2d Cir. 2001) (citing *Link v. Wabash R.R. Co.*, 370 U.S. 626, 630 (1962)).

**SO ORDERED.**

**Date: June 13, 2022**  
**New York, NY**

  
**MARY KAY VYSKOCIL**  
**United States District Judge**